

**LEMON GROVE [CITY COUNCIL]
AGENDA ITEM SUMMARY**

Item No. 3

Mtg. Date November 1, 2016

Dept. City Attorney

Item Title: **[Ordinance No. 442: Amending Title II (Administration and Personnel), Chapter 2.04 (City Manager) Reorganizing Authority of City Officers]**

Staff Contact: [James P. Lough, City Attorney]

Recommendation:

[Introduce Ordinance No. 442, by Title, publish an Ordinance Summary and set for adoption at the Regular City Council Meeting of November 15, 2016 (**Attachment B**)]

Item Summary:

[This Ordinance clarifies areas of responsibility for management under the Council-Manager Form of Government applicable in Lemon Grove. It assigns management responsibilities of the Treasurer and City Clerk to the City Manager. It also clarifies management responsibilities over intergovernmental relations. The Staff Report (**Attachment A**) provides an analysis regarding the proposed ordinance.]

Fiscal Impact:

[None.]

Environmental Review:

☒ Not subject to review

☐ Negative Declaration

☐ Categorical Exemption, Section []

☐ Mitigated Negative Declaration

Public Information:

☒ None

☐ Newsletter article

☐ Notice to property owners within 300 ft.

☐ Notice published in local newspaper

☐ Neighborhood meeting

Attachments:

A. Staff Report

B. Ordinance

LEMON GROVE [CITY COUNCIL]

STAFF REPORT

Item No. 3

Mtg. Date [November 1, 2016]

Item Title: Ordinance No. 442: Amending Title II (Administration and Personnel), Chapter 2.04 (City Manager) Reorganizing Authority of City Officers.

Staff Contact: [James P. Lough, City Attorney]

Discussion:

The attached ordinance amends Chapter 2.04 (City Manager) to both reorganize and clarify duties on the City Manager. The City of Lemon Grove uses the most common form of city government (Council-Manager). It has a City Manager to manage the day-to-day operations of the City under the direction and control of the City Council. Under the Council-Manager form of government, the City Council gives direction to the City Manager who, in turn, has the responsibility of managing the city workforce in a manner consistent with Council direction.

Over the years, the titles and responsibilities of various city officers has changed and the current chapter governing roles and responsibilities has not changed to reflect these shifts. One example is the assumption of the duties of Treasurer by the Finance Manager

Under Lemon Grove Municipal Code ("LGMC") Section 2.04.060(C) (Power of Appointment and Removal) and Section 2.04.070(B) (Internal Relations and Coordination of Intergovernmental Services), there are three officers that are not subject to the direction and control of the City Manager. The City Treasurer, City Clerk and City Attorney are under the supervisory control of the City Council. Except for the City Attorney who is governed by a contract with a law firm, the other two offices are city employees. The attached ordinance places control of these employee positions under the city manager's authority in a manner consistent with the council-manager form of governance applicable to all other employees. The City Council, as part-time body using the Council-Manager Form of Government, does not manage the day-to-day operations of the City. This amendment is consistent with the method of city management of all other city employees.

A second change under the Ordinance reflects the increase in intergovernmental involvement in the day-to-day operations of the City. Under LGMC Section 2.04.060(L) and 2.04.070(C), there is a recognition in the role of the city manager in managing contracts with other governments. Section 2.04.070(C) addresses the various types of cooperative agreements (*i.e.* Heartland Fire and Rescue) and the City Manager role in managing these agreements. This subsection recognizes how the City Manager manages the Sheriff's contract and the Lemon Grove portion of Heartland Fire and Rescue. This subsection states as follows:

C. Subject to the direction and control of the City Council, the city manager, or designee, shall manage all intergovernmental contracts, grant agreements and joint powers agreements on behalf of the City of Lemon Grove, or its subsidiary agencies, with other governmental agencies. The city manager, or designee, shall manage contracts with agencies including, but not limited to, the

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State of California, County of San Diego, Heartland Communications Authority, Heartland Fire and Rescue, San Diego County Sheriff's Department, San Diego Metropolitan Wastewater Authority, and the San Diego Association of Governments. For the purposes of providing public safety services to the citizens of Lemon Grove, the city manager shall supervise the appointed Fire Chief of Heartland Fire and Rescue as to all matters involving the City of Lemon Grove. The city manager shall work with the commanding officer of the Lemon Grove substation of the county of San Diego Sheriff's department in the implementation of the contract providing police services to the City of Lemon Grove. All references to "police" services in this Municipal Code shall mean the services provided by the San Diego Sheriff's department to the City of Lemon Grove. The City Manager, or designee, shall also provide support and assistance to Council-appointed members of Joint Powers Authorities and Intergovernmental Agencies in the performance of their duties.

The changes to 2.04.070(C) also reflect the governance roles of councilmembers who sit on various intergovernmental entities. These are referenced to make clear that the city manager role in managing local contracts or grants with other agencies are different than the respective governance roles held by city councilmembers appointed to regional bodies. The Ordinance adds this subsection to recognize the changing role played by the city manager and the evolving role of local government that includes significant participation in intergovernmental arrangements.

2.04.070(C) clarifies inconsistencies in the Lemon Grove Municipal Code it identifies law enforcement as "police" or "sheriff". This subsection clarifies that the references all apply to the contracted services from the San Diego County Sheriff's Department.

Overall, the changes clear up management inconsistencies to reinforce the Council-Manager Form of Government. Further, new reliance on regional governmental partnerships is consistent with the Council - Manager management model.

Conclusion:

Staff recommends that the City Council adopt introduce the ordinance, by title, (**Attachment B**), authorize publication of a summary of the Ordinance and set the adoption for the next regularly scheduled City Council meeting.

Attachment B

ORDINANCE NO. XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA AMENDING SECTIONS 2.04.060 (POWER OF APPOINTMENT AND REMOVAL) AND 2.04.070 (INTERNAL RELATIONS AND COORDINATION OF INTERGOVERNMENTAL SERVICES) OF THE LEMON GROVE MUNICIPAL CODE

WHEREAS, the City Council of the City of Lemon Grove has adopted the Council-Manager Form of Government; and

WHEREAS, the management of officers and employees under the Council-Manager Form of Government should be consistent across various employment positions to provide public accountability; and

WHEREAS, the role of intergovernmental institutions has increased dramatically since the formation of the City; and

WHEREAS, the City Council recognizes the expanded role that intergovernmental cooperation plays in the governance of the City of Lemon Grove and the San Diego region; and

WHEREAS, the City Council has determined to clearly delineate the roles and responsibilities of the City Manager in managing intergovernmental affairs on a day-to-day basis under the direction of the City Council; and

WHEREAS, the City Council has determined to clarify the roles of public safety personnel under the Council-Manager Form of Government.

NOW THEREFORE, the City Council of the City of Lemon Grove does ordain as follows;

1. Lemon Grove Municipal Code Section 2.04.060 is amended to read as shown in Attachment "B", which is attached hereto and incorporated herein by reference.

2. Lemon Grove Municipal Code Section 2.04.070 is amended to read as shown in Attachment "B", which is attached hereto and incorporated herein by reference.

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Attachment B

3. A Summary of this Ordinance shall be published in the manner provided by law.

INTRODUCED by the City Council on November 1, 2016. PASSED AND ADOPTED by the City Council of the City of Lemon Grove, State of California, on November 15, 2016 by the following vote:

AYES:

NOES:

ABSENT:

Mary Teresa Sessom, Mayor

Attest: _____

Susan Garcia, City Clerk

Approved as to form:

James P. Lough, City Attorney

Proposed Amendments to Chapter 2 of the LGMC

2.04.060 Powers and duties.

The city manager shall be the administrative head of the government of the city under the direction and control of the city council except as otherwise provided in this chapter. He or she shall be responsible for the efficient administration of all the affairs of the city, which are under his or her control. In addition to his or her general powers as administrative head, and not as a limitation thereon, it shall be his or her duty and he or she shall have the powers set forth in the following subsections:

A. Law Enforcement. It shall be the duty of the city manager to enforce all laws and ordinances of the city and to see that all franchises, contracts, permits and privileges granted by the city council are faithfully observed.

B. Authority Over Employees. It shall be the duty of the city manager, and he or she shall have the authority to control, order and give directions to all heads of departments and to subordinate officers and employees of the city under his or her jurisdiction through their department heads.

C. Power of Appointment and Removal. It shall be the duty of the city manager to, and he or she shall appoint, remove, promote and demote any and all officers and employees of the city, subject to all applicable personnel ordinances, rules and regulations except for the city attorney or who shall serve at the pleasure of the city council.

D. Administrative Reorganization of Offices. It shall be the duty and responsibility of the city manager to conduct studies and effect such administrative reorganization of offices, positions or units under his or her direction as may be indicated in the interest of efficient, effective and economical conduct of the city's business.

E. Ordinances. It shall be the duty of the city manager and he or she shall recommend to the city council for adoption such measures and ordinances as he or she deems necessary.

F. Attendance at Council Meetings. It shall be the duty of the city manager to attend all meetings of the city council unless at his or her request he or she is excused therefrom by the mayor individually or the city council.

G. Financial Reports. It shall be the duty of the city manager to keep the city council at all times fully advised as to the financial condition and needs of the city. The city manager shall retain the services of a finance director or person who has responsibility over city finances who shall also serve as the city's treasurer.

H. Budget. It shall be the duty of the city manager to prepare and submit the proposed annual budget and the proposed annual salary plan to the city council for its approval.

I. Expenditure Control and Purchasing. It shall be the duty of the city manager to see that no expenditures shall be submitted or recommended to the city council except on approval of the city manager or authorized representative. The city manager, or authorized representative,

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shall be responsible for the purchase of all supplies for all the departments or divisions of the city.

J. Investigations and Complaints. It shall be the duty of the city manager to make investigations into the affairs of the city and any department or division thereof, and any contract or the proper performance of any obligations of the city. Further, it shall be the duty of the city manager to investigate all complaints in relation to matters concerning the administration of the city government and in regard to the service maintained by public utilities in the city.

K. Public Buildings. It shall be the duty of the city manager and he or she shall exercise general supervision over all public buildings, public parks, and all other public property, which are under the control and jurisdiction of the city council.

L. Contractors. It shall be the duty of the city manager, or designee, to exercise management and control over contractors providing city services.

M. Additional Duties. It shall be the duty of the city manager to perform such other duties and exercise such other powers as may be delegated to him or her from time to time by ordinance or resolution or other official action of the city council. (Ord. 10 § 7, 1977)

2.04.070 Internal relations and coordination of intergovernmental services.

A. Council-Manager Relations. The city council and its members shall deal with the administrative services of the city only through the city manager, except for the purpose of inquiry, and neither the city council nor any member thereof shall give orders or instructions to any subordinates of the city manager. The city manager shall take his or her orders and instructions from the city council only when sitting in a duly convened council meeting. No council member shall give any orders or instructions to the city manager.

B. Departmental Cooperation. It shall be the duty of all subordinate officers and the city attorney to assist the city manager in administering the affairs of the city efficiently, economically and harmoniously.

C. Subject to the direction and control of the City Council, the city manager, or designee, shall manage all intergovernmental contracts, grant agreements and joint powers agreements on behalf of the City of Lemon Grove, or its subsidiary agencies, with other governmental agencies. The city manager, or designee, shall manage contracts with agencies including, but not limited to, the State of California, County of San Diego, Heartland Communications Authority, Heartland Fire and Rescue, San Diego County Sheriff's Department, San Diego Metropolitan Wastewater Authority, and the San Diego Association of Governments. For the purposes of providing public safety services to the citizens of Lemon Grove, the city manager shall supervise the appointed Fire Chief of Heartland Fire and Rescue as to all matters involving the City of Lemon Grove. The city manager shall work with the commanding officer of the Lemon Grove substation of the county of San Diego Sheriff's department in the implementation of the contract providing police services to the City of Lemon Grove. All references to "police" services in this Municipal Code shall mean the services provided by the San Diego Sheriff's department to the City of Lemon Grove. The City Manager, or designee, shall also provide support and assistance to Council-appointed members of Joint Powers Authorities and Intergovernmental Agencies in the performance of their duties.

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D. Attendance at Commission Meetings. The city manager may attend any and all meetings of any commission, board, task force, focus group or committee (collectively “advisory body”) created by the city council, upon the manager’s own volition or upon direction of the city council. At such meetings, which the city manager attends, he or she shall be heard by the advisory body as to all matters upon which the city manager wishes to address the members thereof, and shall inform said members as to the status of any matter being considered by the city council. The city manager shall cooperate fully with the members of all advisory bodies created by the city council. (Ord. 433 § 1, 2015; Ord. 10 § 8, 1977)

2.32.030 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

“Appropriate unit” means a unit established pursuant to Section 2.32.100.

“City” means the city of Lemon Grove, California, a municipal corporation, and where appropriate herein, “city” refers to the city council, the governing body of the city, or any duly authorized management employee as herein defined.

“Consult or consultation in good faith” means to communicate orally or in writing for the purpose of presenting and obtaining views or advising of intended actions.

“Day” means calendar day.

“Employee” means any person regularly employed by the city excluding persons elected by popular vote.

“Employee, confidential” means an employee who is privy to decisions of city management affecting employer-employee relations.

“Employee, management” means any employee having significant responsibility for formulating and administering city policies and programs, including but not limited to the following positions:

1. City manager;
2. Development services director;
3. Public works director;
4. Finance director; and
5. City attorney.

“Employee, professional” means employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including but not limited to attorneys, physicians, registered nurses engineers, architects, teachers and various types of physical, chemical and biological scientists.

“Employee organization” means any organization which includes employees of the city and which has as one of its primary purposes representing such employees in their employment relations with the city.

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“Employer-employee relations” means the relationship between the city and its employees and their employee organization, or when used in a general sense, the relationship between city management and employees or employee organizations.

“Firefighter” means a uniformed employee of the fire department.

“Impasse” means:

1. A deadlock in the annual or periodic discussions between a majority representative and the city over any matters concerning which they are required to meet and confer in good faith, or over the scope of such subject matter; or
2. Any unresolved complaint by an affected employee organization, advanced in good faith, concerning a decision of the municipal employee relations officer made pursuant to Sections 2.32.090, 2.32.100 or 2.32.110.

“Majority representative” means an employee organization, or its duly authorized representative, that has been granted formal recognition by the municipal employee relations officer as representing the majority of employees in an appropriate unit.

“Mediation or conciliation” means the efforts of an impartial third person, or persons, functioning as intermediaries, to assist the parties in reaching a voluntary resolution to an impasse, through interpretation, suggestion and advice. Mediation and conciliation are interchangeable terms.

“Meet and confer in good faith” (sometimes referred to in this chapter as “meet and confer” or “meeting and conferring”) means performance by duly authorized city representatives and duly authorized representatives of an employee organization recognized as the majority representative of their mutual obligation to meet at reasonable times and to confer in good faith regarding matters within the scope of representation, including wages, hours and other terms and conditions of employment, in an effort to:

1. Reach agreement on those matters within the authority of such representatives;
2. Reach agreement on what will be recommended to the city council on those matters within the decision-making authority of the city council.

This does not require either party to agree to a proposal or to make a concession.

“Municipal employee relations officer” means the city’s principal representative in all matters of employer-employee relations designated pursuant to Section 2.32.120, or his duly authorized representative.

“Peace officer.” As this term is defined in Section 830 of the California Penal Code.

“Recognized employee organization” means an employee organization which has been acknowledged in writing by the municipal employee relations officer as an employee organization that represents employees of the city. The rights accompanying recognition are either:

1. “Formal recognition,” which is the right to meet and confer in good faith as the majority representative in an appropriate unit; or

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2. “Informal recognition,” which is the right to consultation in good faith by all recognized employee organizations.

“Scope of representation” means all matters relating to employment conditions and employer-employee relations, including but not limited to wages, hours and other terms and conditions of employment. City rights (Section 2.32.050) are excluded from the scope of representation. (Ord. 327 § 1, 2004)